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Ontario's Cosmetic Pesticides Ban What Licensed Exterminators (Landscape Class) Need to Know

Ontario's cosmetic pesticides ban will take effect April 22, 2009. The requirements of the ban are detailed in Ontario Regulation 63/09 made under the Pesticides Act, which has been amended by the Cosmetic Pesticides Ban Act, 2008.

The ban is part of the McGuinty government's toxics reduction strategy to reduce pollution and protect families from toxic chemicals.

There are 11 classes* of pesticides in Ontario Regulation 63/09 and these, the regulation and the act are available on the Ministry of the Environment's web site at www.Ontario.ca/pesticideban. Pesticide products with controlled sales or banned sales are listed in Classes 7 and 8, respectively. Pesticide ingredients banned for use are listed in Class 9.

The ban contains exceptions for public health or safety (including the protection of public works structures), golf courses, specialty turf, specified sports fields, arboriculture and to protect natural resources, if certain conditions are met. There are also exceptions for agriculture, forestry, research and scientific purposes, and uses of pesticides for structural exterminations (e.g., in and around homes to control insects) and uses of pesticides required by other legislation.

The provincial ban supersedes local municipal pesticides bylaws to create one clear, transparent and understandable set of rules across the province.

Landscape Uses

Pesticide products containing any Class 9 ingredient can only be used under exceptions set out in the regulation. As such, banned pesticides cannot be used on school yards, parks, lawns, ornamental plantings, vegetable gardens, patios, and driveways on residential and non-residential properties

The types of licences that are authorized to perform land exterminations are outlined in s. 68 of O. Reg. 63/09. Although the landscape class licence provides authorization to use pesticides to maintain turf and ornamental plantings, such uses are only allowed for exceptions to the ban.

Also note, the landscape class licence no longer gives authority for the application of pesticides to structures unless it is for the purpose of controlling pests that are directly associated with turf or ornamental plants. In order to perform exterminations on the outside of buildings for such pests as spiders and cluster flies, you require a structural exterminator's licence.

Licensed exterminators may use banned pesticides under excepted uses if certain conditions are met (for example, land exterminations on golf courses and specialty turf)

**Note: All classes are subject to change as newly registered pesticides are classified for sale and use in Ontario, or as products are reclassified or declassified.*

There are no exceptions for pest infestations (insects, fungi or weeds) on lawns, gardens and other outdoor areas to which the ban applies, as lower risk pesticides, biopesticides and alternatives to pesticides exist.

Biopesticides and Lower Risk Pesticides

A Class 4 pesticide that contains a Class 11 pesticide (biopesticide or lower risk pesticide) can be used to manage weeds, insects and plant diseases on lawns, gardens, parks and school yards. Pesticides must be used in accordance with their label. Existing requirements for exterminators who use biopesticides or lower risk pesticides on a commercial basis will continue (i.e., maintaining an appropriate licence, posting signs).

A new requirement is the posting of a 'green' notice sign. When a biopesticide or lower risk pesticide is used, the licensed exterminator must post a green notice sign to advise the public. Exact wording and dimensions for the green sign are available on the ministry's website.

There is no longer an exception from licensing and posting requirements for the use of domestic products that contain only a single ingredient that is a soap, mineral oil, or silicon dioxide (diatomaceous earth) for land exterminations. Land uses of commercial products that contain these ingredients requires a landscape exterminator's licence and appropriate signs to be posted giving public notice of pesticide use.

Arboriculture

There is an exception to the ban, with conditions, to maintain the health of trees under s. 28 of O. Reg. 63/09. The written opinion from a professional tree care specialist must be obtained by a landscape licence holder before a commercial pesticide can be used as an injection into a tree or any banned pesticide can be applied directly to the tree trunk or foliage. The opinion must indicate that pesticide use, as part of an integrated pest management strategy, is necessary in order to maintain the health of the tree.

The licensed exterminator using the pesticide must provide a written notice to the occupants of all properties in residential areas that abut the application area. (Note: the tree is considered to be the application area and therefore all properties that abut the tree or trees (includes branches or trunk) must receive written notification). This written notice must be provided one to seven days in advance and include:

- Date the pesticide will be used
- Application area
- Pest being exterminated
- Name of the pesticide and its registration number
- Ingredient of the pesticide being used
- Contact phone number.

Residential area or non-residential area warning signs or notice signs must be posted.

Land Exterminations Under the Weed Control Act

Under Regulation 1096, made under the Weed Control Act, a weed inspector only has authority to issue an order to a landowner to destroy a noxious weed, as listed under the Act, which may affect any land used for agricultural or horticultural purposes. Any requirements to destroy noxious weeds under that Act do not apply to noxious weeds or weed seeds that are far enough away from land used for agricultural or horticultural purposes that they do not interfere with that use.

Where a pesticide is used for the purposes of complying with a legal requirement to destroy weeds under the Weed Control Act, a licensed exterminator has the responsibility to ensure that, before he or she uses a pesticide in Class 9 for the excepted use under s.32 of O. Reg. 63/09, he or she is complying with the written order issued by the weed inspector. The written order will list the weed to be controlled and exact location to be treated. Note also, that under the “other legislative requirements” exception, a licensed exterminator may only use a Class 9 pesticide for control of noxious weeds if it is determined to be the only effective and practical means of complying with the written order issued by the weed inspector.

Before destroying noxious weeds, a licensed exterminator should contact the local weed inspector to obtain a copy of the written order in order to verify that the “other legislative requirements” exception is applicable and hence that a Class 9 pesticide can be used to control noxious weeds on the property.

See the following website for more information about the Weed Control Act under the jurisdiction of the Ontario Ministry of Agriculture, Food and Rural Affairs:
http://www.omafra.gov.on.ca/english/crops/facts/faq_weeds_act.htm To obtain contact information for the weed inspector in your area get in touch with your local municipality, region, district or county.

Land Exterminations Under the Health or Safety Exception

An exception to control poisonous plants to the touch (e.g. poison ivy, giant hog weed, poison sumac, stinging nettle) is provided in s. 22 of O. Reg. 63/09. Note that the only banned (Class 9) pesticides that can be used for this exception are listed in Class 10.

Pesticide Storage and Disposal

Licensed exterminators are responsible for the safe storage and disposal of banned pesticides.

Prior to disposal, consider asking manufacturers (see product label for details) if banned or other unused pesticides can be returned.

Licensed exterminators may also transfer pesticides to another licensed exterminator for his/her use for exceptions allowed under the ban (e.g., golf courses).

Otherwise, unused pesticides must be disposed of in accordance with O. Reg. 63/09 and Regulation 347 (General Waste Management) under the Environmental Protection Act.

In Ontario, all pesticide wastes must be disposed of at a waste disposal facility that has been approved by the Ministry of the Environment. In addition, pesticide wastes can only be transported by a waste management company that has obtained the appropriate approvals from the Ministry of the Environment.

Disposal of a pesticide by licensed exterminators is a multi-step process that requires classifying the waste and then determining the appropriate actions for disposal based on this classification.

Questions regarding the proper disposal of waste pesticides should be directed to your local Ministry of the Environment District Office (look in the Blue Pages in your telephone directory or see a listing on the ministry’s web site at www.ene.gov.on.ca/en/about/org/index.php#4).

Compliance and Enforcement

The ministry manages its approach to compliance and enforcement through education and outreach, inspections, response to incidents, voluntary abatement, orders, tickets and prosecutions. In the case of the pesticides ban, the ministry will focus its initial efforts on education when responding to reports of suspected non-compliance. Questions or non-compliance reports should be directed to a ministry district office during regular business hours (look in the Blue Pages in your telephone directory or see a listing on the ministry's web site at www.ene.gov.on.ca/en/about/org/index.php#4). After business hours call the ministry's Pollution Hotline at 1-866-MOE-TIPS (1-866-663-8477).

For more information:

Questions about the ban can be directed to the Ministry of the Environment's Public Information Centre at 1-800-565-4923 or 416-325-4000.

Several fact sheets are available on the ministry's website for specific audiences, as well as a general fact sheet about the regulation and suggestions on caring for lawns and gardens with greener alternatives.